

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

RICHARD J. ISOLDE, Individually And On  
Behalf Of All Others Similarly Situated,

Plaintiff,

v.

TRINITY INDUSTRIES, INC., TIMOTHY R.  
WALLACE, AND JAMES E. PERRY,

Defendants.

Case No. 3:15-cv-2093

Judge Ed Kinkeade

**RESPONSE TO THE PLUMBERS PENSION FUNDS' NOTICE OF FILING BY  
THE DEPARTMENT OF THE TREASURY OF THE STATE OF NEW JERSEY  
AND ITS DIVISION OF INVESTMENT**

New Jersey respectfully submits this response to the “Notice” filed on November 11, 2015 by the Plumbers Pension Funds (ECF No. 72). That submission has no bearing on the only pertinent question before this Court: which movant has the largest financial interest and should be appointed Lead Plaintiff. The Plumbers Pension Funds do not dispute that New Jersey – which incurred a loss that is thirty times greater than the Plumbers Pension Funds – has the largest financial interest, and presents no proof that New Jersey is atypical or inadequate to serve as Lead Plaintiff. *See* ECF No. 39 at 1, 5. Neither do they dispute that New Jersey’s counsel, Bernstein Litowitz Berger & Grossmann LLP (“Bernstein Litowitz”) and Lowenstein Sandler LLP (“Lowenstein Sandler”), have recovered billions of dollars for investors in cases under the PSLRA. *See* ECF No. 9 at 10. That should be the end of the inquiry, and explains why Judge Gilstrap already appointed New Jersey as Lead Plaintiff (and approved its selection of Bernstein Litowitz and Lowenstein Sandler as Lead Counsel) in the related securities class action pending against Trinity in this District before the Honorable David Godbey. *See* ECF No. 70.

Instead, the Plumbers Pension Funds’ latest submission is nothing more than an attempt to criticize one of New Jersey’s counsel in the hope that it will distract the Court from the actual question presented by the pending motions. The Plumbers Pension Funds provide this Court with “Notice” of proceedings in an unrelated action in which New Jersey is not a party, but in which Bernstein Litowitz represents a plaintiff and Lead Plaintiff movant. Rather than supporting the Plumbers Pension Funds’ spurious claims that Bernstein Litowitz is “manipulating” a class action, the facts demonstrate that Bernstein Litowitz is vigorously and appropriately representing the interests of its clients and the class.

In the litigation against Pier 1 that is discussed in the Plumbers Pension Funds’ Notice, the initial complaint alleged that the fraud perpetrated by Pier 1 was fully disclosed on February 10, 2015. *See* ECF No. 73-1 at ¶¶46-48, App. 48. Subsequent revelations by Pier 1 in September 2015 showed that the full truth about Pier 1 had not been fully disclosed, and that investors who purchased Pier 1 stock between February 2015 and September 2015 had been defrauded. In particular, on

September 24, 2015, Pier 1 disclosed margin pressures, inventory issues, and a guidance revision stemming from the same fraud alleged in the initial complaint, which caused the price of the Company's stock to drop 26%. *Id.* at ¶56, App. 51. Without the filing of a complaint that asserted a broader class period, investors that purchased Pier 1 stock between February and September 2015 would have no compensable losses. As such, the expansion of the class period is not only supported by the facts, but is in the best interests of the class given that it enables more investors to recover their losses.<sup>1</sup> Bernstein Litowitz promptly published notice informing all Pier 1 investors of the expanded allegations, as required by the PSLRA.

Clearly, these filings in *Pier 1* have no bearing on the case before this Court. What is relevant to the current analysis, however, is the fact that in addition to lacking the largest financial interest, the Plumbers Pension Funds are inadequate because they are an improper group (ECF No. 39 at 6-7), and Plumbers and Pipefitters National Pension Fund is a net seller of Trinity stock (ECF No. 39 at 7). The Plumbers Pension Funds' current application, replete with inaccurate aspersions against other attorneys, simply confirms that their position is meritless.

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<sup>1</sup> It bears noting that counsel to the Plumbers Pension Funds, Robbins Geller Rudman & Dowd LLP ("Robbins Geller") also represents a competing Lead Plaintiff movant in the *Pier 1* litigation, and Robbins Geller's own client is benefitted by the complaint asserting the broader class period.

Dated: November 13, 2015

Respectfully Submitted,

/s/ David Folsom

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**CERTIFICATE OF SERVICE**

I hereby certify that on this day, November 13, 2015, I electronically filed the above Response to the Plumbers Pension Funds' Notice of Filing by the Department of the Treasury of the State of New Jersey and Its Division of Investment using the CM/ECF system, which will automatically send email notification of such filing to all attorneys of record.

/s/ David Folsom

David Folsom